

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

ERNESTO Y. CASTILLO,

Plaintiff,

vs.

NEWREZ LLC D/B/A SHELLPOINT
MORTGAGE SERVICING AND U.S.
BANK N. A., AS TRUSTEE,

Defendants.

§
§
§
§
§
§
§
§
§
§

SA-21-CV-00437-XR

ORDER

Before the Court in the above-styled cause of action is Defendant Shellpoint's Opposed Motion to Compel Discovery [#27], which was referred to the undersigned on November 3, 2021.¹ By its motion, Shellpoint asks the Court to compel Plaintiff to supplement his answers to sixteen discovery requests on the basis that the existing responses are insufficient. The Court will grant the motion as unopposed for the reasons that follow.

Shellpoint filed its motion to compel on November 2, 2021. Although discovery in this case ended on November 1, 2021 (*see* Sched. Order [#9]), under this Court's Local Rules, the motion was timely filed. Rule CV-16 provides that no motion related to discovery shall be filed after the expiration of the discovery deadline, unless the motion is "filed within 14 days after the discovery deadline and pertain[s] to conduct occurring during the final 7 days of discovery." W.D. Tex. Loc. R. CV-16(e). Shellpoint served Plaintiff with the discovery at issue on August 3, 2021. Shellpoint received Plaintiff's responses on September 8, 2021, the majority of which failed to substantively answer the interrogatories and production requests. Instead, Plaintiff

¹ Due to a docketing error, the undersigned did not receive notification of the referral until December 1, 2021.

merely indicated that he was “currently collecting and assembling documents.” (*See, e.g.*, Responses [#27-1] at 3.) The parties attempted mediation in September, but their negotiations were unsuccessful. On October 15, 2021, Shellpoint requested supplementation. (Ltr. [#27-3], at 2.) Rather than providing the requested additional responses, Plaintiff requested various extensions to supplement. (E-Mails [#27-4, #27-5].) The final agreed deadline to provide the supplementation was November 1, 2021—the discovery deadline. (Ltr. [#27-6].) Shellpoint promptly filed its motion to compel when Plaintiff failed to meet the deadline. Shellpoint’s motion pertains to conduct occurring within the final seven days of discovery under the Local Rules.

As Shellpoint’s motion was timely filed and Plaintiff failed to file a response in opposition, the Court will grant the motion as unopposed. Plaintiff’s response in opposition to the motion was due by November 9, 2021. *See* W.D. Tex. Loc. R. CV-7(d)(2) (responses to case management and discovery motions due within seven days of motion’s filing). Plaintiff failed to file a response in opposition for the Court’s consideration. Under this Court’s Local Rules, the Court may therefore grant the motion as unopposed. *See id.*

The Court acknowledges that Shellpoint had sought the supplemented discovery responses prior to the deadline for the filing of dispositive motions, which was November 30, 2021. The record reflects that Defendants filed a motion on November 30, 2021, asking the Court to convert their motion to dismiss under Rule 12(c) to a motion for summary judgment. Both the motion to dismiss and motion to convert the motion remain pending before the District Court.

IT IS THEREFORE ORDERED that Defendant Shellpoint’s Opposed Motion to Compel Discovery [#27] is **GRANTED**.

IT IS FURTHER ORDERED that Plaintiff shall serve amended responses to Shellpoint's first interrogatories to Plaintiff and to Shellpoint's first production requests to Plaintiff on Shellpoint's counsel by **December 9, 2021**. The responses shall be made without objection and substantively answer interrogatories 5, 6, 10, 11, 12, 13, 14, and 15 and substantively respond to production requests 5, 6, 8, 9, 10, 11, 12, and 13.

SIGNED this 2nd day of December, 2021.



ELIZABETH S. ("BETSY") CHESTNEY
UNITED STATES MAGISTRATE JUDGE